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ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			WILLIAMS, THOMAS J	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/672,625
Filing Date: September 26, 2003
Appellant(s): BALE ET AL.

MAILED

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GROUP 3600

Todd M. Oberdick
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 10, 2006 appealing from the Office action mailed October 6, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The “conflict resolution scheme” and “control schemes” are critical or essential to the practice of the invention, but not described in a way to enable one skilled in the art to which it pertains to make and use the invention. Further, the manipulation of sensor information for a vehicle can vary significantly depending on the type of information received by the sensor and it is impossible to determine from the applicant’s claims and specification in what way the information from the claimed sensors is used in the “control schemes”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,575,543 to Pheonix.

Re-claim 1, Pheonix discloses a brake system, comprising: a plurality of brake components (such as brake valves 20); a vehicle performance sensor (such as wheel speed sensors 26); a central control unit 10 receives the sensor signals (via control bus 18) from the vehicle performance sensors and generates central control signals for controlling the plurality of brake components 20 based on the sensor signals (see column 6 lines 33-42); a distributed electronic control unit 16 receives the sensor signals from the vehicle performance sensors (see column 6 lines 25-29) for controlling only some of the plurality of brake components based on the sensor signals (see column 6 lines 43-59); he local controller 16 is disclosed as capable of overriding the central control unit signals as necessary, this override function is interpreted as a conflict resolution scheme. This is consistent an example provided by the applicant in the instant application, see page 16 lines 17-20, in which the conflict resolution may depend upon sensed conditions (interpreted as a changing condition) of the vehicle.

Re-claims 2, 3, 5 and 16, Pheonix discloses that each valve can be controlled by only the central control unit, a first control scheme is broadly interpreted as a first set of control signals for a valve based upon a first set of data from the sensor signals, a second control scheme is interpreted as a second later set of data from the sensor signals (due to changes in the wheel dynamics); any adjustment with the output signals to the valve, in view of the two sets of data, is broadly interpreted as a conflict resolution scheme; the conflict resolution scheme is seen as part of the control schemes.

Re-claims 4 and 15, the distributed electronic control unit comprises a first scheme (such as implementing the central control unit control signals), and a second scheme (such as the override function), the overriding function is interpreted as the conflict resolution scheme.

Re-claims 6 and 17, the brake pedal is a manually operated input device and can override the central control signals, i.e. releasing foot pressure will cancel an ABS function.

Re-claims 7 and 18, see the air pressure actuated brake actuators.

Re-claims 8 and 19, the valves 20 will require electrical energy to operate, thus a source of electrical energy must be present for actuating the valves.

Re-claims 9, 11-13 and 20, the override is interpreted as the conflict resolution scheme, it is configured as software.

Re-claim 10, Pheonix discloses a brake system, comprising: first brake component 22a; a second brake component 22b, 22c or 22d; a vehicle performance sensor 26; a central control unit 10 receives sensor signals from sensors 26; a first control scheme for generating central control signals for controlling the first brake component (broadly interpreted as a wheel control scheme for wheel 24a based upon signals from sensor 26a); a second control scheme used by the central control unit for generating central control signals for controlling the second brake component (broadly interpreted as a particular control scheme for controlling one of the other wheels, which is not undergoing the same dynamic instability as wheel 26a, as is quite common during ABS functions); a distributed electronic control unit receiving sensor signals from the at least

one performance sensor and generating local control signals for controlling the first and second brake components. Local controller 16 is able to override the master control signals based upon sensed wheel data, see column 6 lines 43-59.

Re-claim 14, each distributed electronic control unit operates only one brake component, see figure 1.

(10) Response to Argument

As best understood by the examiner the gist of the invention is the “conflict resolution scheme” or “control schemes”. However, the applicant fails to detail either type of scheme and how each is different from the prior art. Furthermore, the applicant contends that these types of schemes are well known in the art. Which raises the issue of what exactly is the patentable feature in the claims if the gist of the invention as admitted by the applicant is well known in the art. This lack of enablement renders it difficult for the examiner to determine what exactly the applicant believes to entail a conflict resolution scheme or a first and second control scheme. Thus the examiner is left to interpret what constitutes a conflict resolution scheme or control scheme. With regards to Pheonix, the ABS control logic of the central control unit outputs a brake pressure control scheme specific to each wheel based upon the driving dynamics of the wheel in question. The local controller can override the output from the central controller if it is determined that the scheme is no longer valid for the wheel. This override function is interpreted as a conflict resolution scheme, since the local controller sets out to resolve a conflict between the central controller output (or scheme) and the actual required response (or scheme) as determined by the local controller. This is substantially similar to the situation disclosed

by the applicant on page 25 lines 1-10 of the instant specification. As such it is the opinion of the examiner that the system of Pheonix does in fact provide a conflict resolution scheme, as well as various control schemes for each wheel in response to the driving dynamics of the wheel in question.

With regards to claim 1, Pheonix discloses a method of resolving signals sent from the central control unit to the local control unit if it is determined that the control signals are no longer valid based upon the current dynamic conditions of the wheel. This resolution is broadly interpreted as a conflict resolution, since the signals sent from the central control unit would conflict with the signals produced by the local unit which are deemed more appropriate for the current wheel conditions. This appears to approximate the conflict resolution scheme mentioned on page 16 lines 17-20 as well as the above mentioned section on page 25 in the instant specification.

With regards to claim 10, as stated above a control scheme is broadly interpreted as pressure control operation for a wheel dependent upon the wheel dynamics. Each wheel is independently controlled (as shown in figure 1), as such the control scheme for each wheel will depend upon the driving dynamics at that wheel. Furthermore, each wheel is provided with a local controller that is capable of overriding any signals from the central control unit. As such this is interpreted as a conflict resolution scheme, consistent with claims 11-13.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

Thomas J. Williams

THOMAS J. WILLIAMS
PRIMARY EXAMINER

Thomas J. Williams
DU 3683
April 12, 2006

Conferees:

James McClellan 

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